

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 05-00355-01-CR-W-HFS
)	
ROBERT L. HENDERSON,)	
)	
Defendant.)	

ORDER

The problem in this case relates to an officer's use of the word "your" in supposedly addressing another officer in defendant's presence. When she said she had located "your gun" (Tr. 18, 69) she was either making a routine comment or was addressing defendant in a manner likely to cause him to respond, even though he had not been given a Miranda warning. The magistrate judge heard the testimony and I would accept his conclusion that the remark was addressed to another officer, who would be interested in what was found. The testimony does not indicate that it was a direct quote. Compare Tr. 44.

Apart from that, the defendant's response was a denial, and I have difficulty seeing how that is materially incriminating, so as to justify suppression. The second statement was not the product of a Miranda violation and should also not be suppressed.

After reviewing the file, including the transcript, I agree with the report and recommendation and also with the Government's response (Doc. 46). The motion to suppress statements is hereby DENIED.

/s/ Howard F. Sachs
HOWARD F. SACHS
UNITED STATES DISTRICT JUDGE

May 25, 2006

Kansas City, Missouri